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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,110	09/30/2003	Marcus Kellerman	14972US02	4986

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EXAMINER

REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
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2131

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/675,110

Applicant(s)

KELLERMAN ET AL.

Examiner

Christopher A. Revak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 and 21-28 is/are allowed.
- 6) ☒ Claim(s) 1-12, 16-20 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/30/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed have been fully considered but they are not persuasive.

The applicant argues that Brown fails to disclose of "...receiving, from the first communication device, a device profile....", furthermore that, Brown discloses of "a user profile is stored in the user database within the proxy machine, not within the client device".

The examiner respectfully disagrees with the applicant's assertion. The teachings of Brown indeed disclose that the client information, or device profile, are stored in the user database, see column 4, lines 34-35. There is no mention of storing the device profile in the client device being claimed as presently argued by the applicant. The claims only recite of receiving the device profile from the first communication device, but does not indicate that the device profile is stored at the client device. The teachings of Brown disclose that a client device, or first communication device, initiates a request to a proxy machine, or second communication device, which is passed through a transcoder farm, or server, which retrieves the user profile from the user database used for transcoding the content into the proper format, see column 4, lines 42-49. It is the initiating of the request from the client device that leads to the retrieval of the user profile from the user database whereby the request is specific to the client device which uses that information to retrieve the user profile related to the client

device. Without the request coming from the client device, that particular user profile specific to that client device would not be retrieved and received at the proxy machine.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., storing the user profile within the client device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The applicant argues that Brown does not disclose of the device profile being "within the client device", the applicant's current claim language does not indicate that the device profile is contained with the client device, but rather only discloses of sending user profile information which is interpreted by the examiner that the user profile information can exist anywhere, including outside the client because the current claim language does not indicate that the user profile is stored on the client device.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, client information being able to be updated or revisable is obvious in that whenever changes were made

to the client device so that the transcoder farm can reformat the media that corresponds to the updated or revised client configuration. If current updates are not taken into account, errors or unstable conditions could occur which would affect the operations of a system. It is the examiner's position that the applicant is arguing well known features that are commonly used and the inventive concept being argued by the applicant is the aspect of reformatting content based on user profile information and the inventive concept is not that of updating or revising client profiles since it is well known that a client profile is commonly revised or updated.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5,7-12,16,17, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al, U.S. Patent 7,010,581.

As per claim 1, the teachings of Brown et al disclose of a system for reformatting media content (col. 4, lines 2-9). A transcoder farm, item #24 (server), is operably to a network (as shown in Figure 2). A client device, item 10 (first communication device), and proxy machine, item #11 (second communication device), are operably connected

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to the network (as shown in Figure 2). The proxy machine (second communication device) receives client information (device profile) related to the client device (first communication device) from the client device (first communications device) and the proxy machine (second communication device) sends the client information (device profile) and media content to the transcoder farm (server)(col. 3, lines 50-52; col. 4, lines 2-9,34-35, & 42-55). The transcoder farm (server) reformats the media content based on the client information (device profile)(col. 4, lines 6-9).

As per claim 2, it is disclosed by Brown et al that the transcoder farm (server) sends the reformatted media content to the client device (first communication device)(col. 4, lines 6-9).

As per claim 3, Brown et al teaches that the transcoder farm (server) transcodes the media content from a first type of format to a second type of format wherein the second type of format is compatible with the client device (first communication device)(col. 4, lines 2-9 & 42-55).

As per claim 4, Brown et al discloses that the transcoder farm (server) comprises a dedicated format conversion server (col. 4, lines 37-39).

As per claim 5, the teachings of Brown et al disclose that the client device (first communication device) requests the media content from the proxy machine (second communication device)(col. 3, lines 50-52 and col. 4, lines 42-55).

As per claim 7, it is disclosed by Brown et al that the client device (first communication device) is coupled to the network via a first headend and the proxy

machine (second communication device) is coupled to the network via a second headend (please refer to Figure 2).

As per claim 8, Brown et al teaches that the client device (first communication device), proxy machine (second communication device), and the transcoder farm (server) comprise a software platform that can provide user-interface functionality, distributed storage functionality, and networking functionality (col. 3, lines 32-37; col. 4, line 62 through col. 5, line 2; and as shown in Figure 2).

As per claim 9, Brown et al discloses of the client (first communication device), proxy machine (second communication device), and the transcoder farm (server) comprise a software platform that can provide channel setup (col. 3, lines 32-37 and as shown in Figure 2).

As per claim 10, it is taught by Brown et al that the client (first communication device) proxy machine (second communication device), and the transcoder farm (server) have distributed networking capability (col. 3, lines 32-37 and as shown in Figure 2).

As per claim 11, Brown et al discloses that the client information (device profile) comprises information related to the media capabilities of the client device (first communication device)(col. 4, lines 2-9,34-35, & 42-55).

As per claim 12, Brown et al teaches that the client device (first communication device) and the proxy machine (second communication device) comprise a television screen that facilitates view and interacting with media (col. 4, line 62 through col. 5, line 2).

As per claim 16, Brown et al teaches of a system for reformatting media content (col. 4, lines 2-9). A transcoder farm (server) is operably coupled to a network (as shown in Figure 2). A client device (communications device) operably coupled to the network receives media content of a format that is not supported by the communications device and sends client information (device profile) of the client device (communications device) and the received media content to the transcoder farm (server)(col. 3, lines 50-52; col. 4, lines 2-9,34-35, & 42-55). The transcoder farm (server) reformats the media content from the client device (communications device) into a format that is supported by the client device (communications device) based on the client information (device profile)(col. 4, lines 6-9).

As per claim 17, it is disclosed by Brown et al that the transcoder farm (server) stores the client information (device profile) of the client device (communications device) for use in reformatting other media destined for the client device (communications device)(col. 4, lines 2-9 & 34-38).

As per claim 29, it is taught by Brown of a system for reformatting media content, the system for operation in a network having a transcoder farm (server)(col. 3, lines 50-52; col. 4, lines 2-9,34-35, & 42-55; and as shown in Figure 2). The system comprising a client device (communications device) for operatively coupling to the network, the client device (communications device) operable to receive media content of a format that is not supported by the client device (communications device) and to send client information (device profile) of the client device (communications device) and the received media content to the transcoder farm (server)(col. 3, lines 50-52; col. 4, lines

2-9,34-35, & 42-55). The client device (communications device) operable to receive the media content after it has been reformatted by the transcoder farm (server), based on the client information (device profile) of the client device (communications device), into a format supported by the client device (communications device)(col. 4, lines 6-9).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al, U.S. Patent 7,010,581.

As per claims 6 and 18, it is disclosed by Brown et al of a system for reformatting media content (col. 3, lines 27-33). A client device (communication device) is operably connected to a network (as shown in Figure 2). The client (communications device) stores client information (device profile) and sends the client information (device profile) to the network (col. 4, lines 2-9). Media content is received from the network that has been reformatted based on the client information (device profile)(col. 3, lines 50-52; col. 4, lines 2-9,34-35, & 42-55). The teachings of Brown et al do not disclose that the client information (device profile) is updated or revisable. It is obvious to one of ordinary skill in the art at the time of the invention to have been motivated to allow client information to be modified based on changes to the client device (communications device). It is

notoriously well known that a client can alter its configuration formats at any point in time and when that change takes place, the motivational benefits is to accordingly notify a server or provider so that the appropriate formats can be supplied. It is obvious that the teachings Brown et al would have allowed updates or revisions to the client information (device profile) whenever changes were made to the client device (communication device) so that the transcoder farm (server) can reformat the media that corresponds to the updated or revised client configuration.

As per claim 19, the teachings of Brown et al disclose of a transcoder farm (server) operably connected to the network (as shown in Figure 2). The transcoder farm (server) reformats the media content destined for the client device (communications device) based on the revisable client information (device profile)(col. 4, lines 6-9).

As per claim 20, Brown et al teaches that the data access server stores the revisable client information (device profile) of the client (communications device) for use in reformatting other media destined for the client (communications device)(col. 4, lines 2-9).

Allowable Subject Matter

8. Claims 13-15 and 21-28 are allowed.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR



April 14, 2007

CHRISTOPHER REVAK
PRIMARY EXAMINER

